

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

MIDAS GREEN TECHNOLOGIES, LLC,	§	
	§	
Plaintiff,	§	
	§	
v.	§	Civil Action No. 6:22-cv-50-ADA
	§	
RHODIUM ENTERPRISES, INC., <i>et al.</i>	§	
	§	
Defendant.	§	

JOINT MOTION FOR ENTRY OF AMENDED SCHEDULING ORDER

TO THE HONORABLE JUDGE OF SAID COURT:

COME NOW Plaintiff Midas Green Technologies, LLC (“Midas” or “Plaintiff”) and Defendants Rhodium Enterprises, Inc., Rhodium Technologies LLC, Rhodium 10mw LLC, Rhodium 2.0 LLC, Rhodium 30mw LLC, Rhodium Encore LLC, Rhodium Renewables LLC, Rhodium Renewables Sub LLC, and Rhodium Ready Ventures LLC (“Rhodium” or “Defendants”) and respectfully request this Court extend certain deadlines in this matter—not including the trial date of March 18, 2024—by approximately 30 days as set forth below. In support of this motion, the Parties would show the Court the following:

1. When making the current pretrial schedule, the Parties had not yet finished negotiating the terms of a protective order, which was required before Parties could exchange certain critical discovery necessary for anticipated site inspections, numerous depositions, and expert consultations and reports.
2. However, prior to finishing negotiations on the protective order, Midas and then Rhodium changed trial counsel, which delayed the request for and entry of a protective order until June 7, 2023 (Dkt. #124).

3. On July 12, 2023, the Parties respectfully requested all pending deadlines be extended an additional 60 days in order to allow them to complete the remaining discovery (Dkt. #126).
4. This Court granted the request on July 14, 2023 (Dkt. #127) and all deadlines were extended 60 days.
5. During the development of a deposition schedule, the parties have come to realize that the fact discovery and expert discovery deadlines need an additional 30 days to be completed. The request to extend fact and expert discovery will not disrupt or change the March 18, 2024 trial date.
6. Additionally, lead trial counsel for Midas has just recently been notified of his brother's health-related condition that requires travel to New Jersey for some weeks of September.
7. The Parties request the Court amend the scheduling order as follows:

Event	Current Date	Proposed Date
Deadline for the first of two meet and confers to discuss significantly narrowing the number of claims asserted and prior art references at issue. Unless the parties agree to the narrowing, they are ordered to contact the Court's law clerk to arrange a teleconference with the Court to resolve the disputed issues.	9/5/2023	10/05/2023
Close of fact discovery	9/26/2023	10/26/2023
Opening of expert reports	10/10/2023	11/9/2023
Rebuttal of expert reports	11/7/2023	12/7/2023

Close of expert discovery	11/28/2023	1/9/2024
Deadline for the second of two meet and confers to discuss narrowing the number of claims asserted and prior art references at issue to triable limits. If it helps the parties determine these limits, the parties are encouraged to contact the Court's law clerk for an estimate of the amount of trial time anticipated per side. The parties shall file a Joint Report within 5 business days regarding the results of the meet and confer.	11/28/2023	1/9/2024
Last court day to file joint report regarding results of second meet and confer.	12/5/2023	1/9/2024
Dispositive motion deadline and Daubert motion deadline. See General Issues Note #7 regarding providing copies of the briefing to the Court and the technical advisor (if appointed). (Dkt. 54)	12/4/2023	1/16/2024
Last court day to file and serve response to dispositive motion and Daubert motions. ***Note: CV-7(d)(2) may set different deadline to file response. Serve Pretrial Disclosures (jury instructions, exhibits lists, witness lists, discovery and deposition designations).	12/26/2023	1/26/2024
Serve replies to dispositive motions and Daubert motions	1/2/2024	2/7/2024
Serve objections to pretrial disclosures/rebuttal disclosures	1/8/2024	2/7/2024
Parties to jointly email the Court's law clerk (See OGP at 1) to confirm their pretrial conference and trial dates. File joint notice identifying remaining objections to pretrial disclosures and disputes on motions in limine.	1/8/2024	2/7/2024
Last court day to serve objections to rebuttal disclosures; file Motions in limine.	1/14/2024	2/14/2024
File Joint Pretrial Order and Pretrial Submissions (jury instructions, exhibits lists, witness lists, discovery and	1/19/2024	2/21/2024

deposition designations); file oppositions to motions in limine.		
File Notice of Request for Daily Transcript or Real Time Reporting. If a daily transcript or real time reporting of court proceedings is requested for trial, the party or parties making said request shall file a notice with the Court and email the Court Reporter, Kristie Davis at kmdaviscsr@yahoo.com Deadline to meet and confer regarding remaining objections and disputes on motions in limine.	1/19/2024	2/21/2024
Last court day for parties to jointly email to Judge's law clerks text-editable chart listing each motion in limine.	1/22/2024	2/21/2024
Last court day for parties to jointly contact court's law clerk for a Box link to submit to chambers unredacted copies of all pending motions and their exhibits, and to jointly send to chambers paper copies of motions without exhibits. ***Note: Parties to also jointly send courtesy email providing Judge's law clerks with list of pending motions.	1/22/2024	2/21/2024
Last court day for party asserting invalidity or noninfringement to give notice to adverse party of information set forth in 35 USC 282.	2/6/2024	2/21/2024
File Joint notice identifying remaining objections to pretrial disclosures and disputes on motions in limine.	2/6/2024	2/21/2024
Re non-jury trial: Last court day to submit proposed final findings of fact and conclusions of law by email to Judge's law clerks.	2/6/2024	2/21/2024
Final Pretrial Conference. Held in person unless otherwise requested.	2/12/2024	2/26/2024
Reminder: Any party that intends to present evidence at trial that requires the use of technology is required to communicate this intention to court staff in advance of commencement of trial.	2/19/2024	2/26/2024

Reminder: Counsel are required to bring physical copies of any depositions that have been taken of any witnesses who will testify at trial.	2/19/2024	3/15/2024
Jury Selection/Trial Date	3/18/2024	3/18/2024

CONCLUSION

The Parties respectfully request that the Court enter the above proposed schedule for this case.

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CERTIFICATE OF CONFERENCE

I certify that counsel for all Parties have conferred in good faith and this motion is joint.

/s/ Joseph E. Thomas

CERTIFICATE OF SERVICE

I certify that counsel of record who have appeared electronically in this case have been served with a copy of this document via the Court's EM/ECF system.

/s/ Tierra Mendiola